

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-185850

DATE: February 20, 1976

MATTER OF: William D. Hutchinson

DIGEST:

60546  
98578

Protest filed on February 2, 1976, against cancellation of RFP because of submission of proposals by Government agencies is untimely as contracting officer advised protester of reason for cancellation by letter of December 11, 1975, and § 20.2(b)(2) of our Bid Protest Procedures requires protests be filed within 10 working days after basis of protest is known or should have been known.

On September 10, 1975, the Air Force Flight Test Center, Edwards Air Force Base, California, issued solicitation No. F04611-76-R-0010 for the performance of a study of neutron effects on solid rocket propellants. Proposals were due on October 10, 1975. On November 10, 1975, following receipt of proposals, the contracting officer canceled the solicitation, and so advised offerors by notice dated November 12, 1975.

William D. Hutchinson, an offeror, has protested this cancellation and the subsequent award of a contract to another governmental agency, Picatinny Arsenal. Hutchinson contends that offerors were misled into believing they would be competing against other commercial concerns and that by the entry of a governmental agency, proposals from commercial offerors were not evaluated.

From the record, it appears that by letter of December 11, 1975, the contracting officer advised Hutchinson that proposals had been received from two governmental agencies and that no competitive evaluation between the Government sources and commercial concerns had been made. Hutchinson advises that it discovered on January 23, 1976, that award had been made to Picatinny Arsenal.

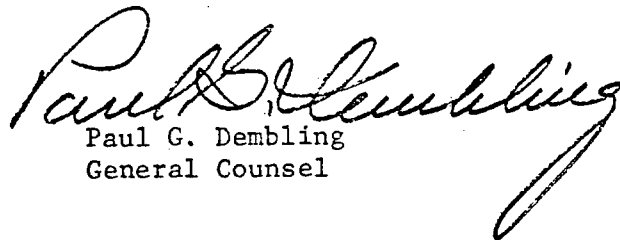
Our Office received the protest letter from Hutchinson on February 2, 1976. Upon our review of the record, we believe Hutchinson knew of the basis of his protest upon receipt of the December 11, 1975, letter from the contracting officer. The

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letter stated that the purchase request was canceled because a Government agency with the ability to perform had submitted a proposal. Cancellation of the purchase request obviously confirmed the withdrawal of the solicitation. Hutchinson was then on notice that the award would not be made to any private firm.

Section 20.2(b)(2) of our Bid Protest Procedures (40 Fed. Reg. 17979 (1975)) requires that protests be filed with our Office not later than 10 days after the basis of the protest is known or should have been known. Under this standard, the protest filed by Hutchinson is untimely and will not be considered further.

Also, in the letter of protest, Hutchinson requests advice as to any rights he may have with regard to recovery of proposal preparation costs. While the protest is untimely, a claim for proposal preparation costs, if submitted, would be for consideration under the criteria enunciated in T&H Company, 54 Comp. Gen. 1021 (1975), 75-1 CPD 345.

  
Paul G. Dembling  
General Counsel